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AUG 29 2002

OFFICE OF PETITIONS

Applicant: Wilson et al.
Appl. No.: 09/896,375
Filing Date: June 29, 2001
Title: FLAVORING COMPOSITION AND PROCESS FOR BREWING MALT BEVERAGES
Attorney Docket No.: STEINER 00.01
Pub. No.: US 2002/0076475 A1
Pub. Date: June 20, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed via facsimile transmission on August 16, 2002 for the above-identified application. This is also in response to the petition under 37 CFR 1.182 to change the order of the inventor's names, filed April 24, 2002.

The request is **DISMISSED**.

The petition under 37 CFR 1.182 is granted.

The instant request is that the application be republished because the patent application publication contains the inventors in the wrong order, as Richard J. H. Wilson should be listed as the first inventor. On April 17, 2002, applicant filed a petition to change the order of the inventors.

A patent application publication is based on the application papers as originally filed, according to 37 CFR 1.215(a), which says the following, in part:

(a) . . . The patent application publication will be based upon the application papers deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application . . . The patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to paragraph (c) of this section.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹ The instant request does not identify a material mistake in the publication made by the Office:

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

The instant request does not identify a mistake that is the fault of the Office. On December 27, 2001, applicant filed a declaration listing the order of inventors as Adam Gimbel, Trevor Roberts, Robert Smith and Richard Wilson. The patent application publication listed the inventors in the order presented on the declaration.

Although, applicant's petition to change the order of the inventors, filed on April 24, 2002, was received too late for the information to be used for publication of the application, the petition is now granted and the information has been changed in the Office records.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

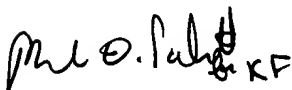
The application is being forwarded to Technology Center 1600 to await further examination in due course.

Any request for reconsideration of this decision, should be addressed as follows:

By mail to: Box PGPUB
 Commissioner for Patents
 Washington DC 20231

By facsimile: 703-305-8568

Inquiries relating to this matter may be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).



Karin Ferriter
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Enclosure: Replacement Filing Receipt